

WHEREAS, there was duly presented and introduced to this County Legislature at a regular meeting held on September 22, 1995, a proposed local law entitled, "A LOCAL LAW TO REGULATE TAX GRIEVANCE CONSULTANTS" and said local law in final form is the same as when presented and introduced; now, therefore, be it RESOLVED, that said local law be enacted in form as follows:

LOCAL LAW NO. 13-1995, SUFFOLK COUNTY, NEW YORK

A LOCAL LAW TO REGULATE TAX GRIEVANCE CONSULTANTS

BE IT ENACTED BY THE COUNTY LEGISLATURE OF THE COUNTY OF SUFFOLK, as follows:

Section 1. Legislative Intent.

This Legislature hereby finds and determines that homeowners within the County of Suffolk may be victimized by individuals or businesses which offer, for a fee or other compensation, to assist homeowners in obtaining a reduction in the assessed valuation of their residences.

This Legislature further finds that these and other alleged improper activities by some tax assessment reduction services threaten the financial well being of the residents of this County; impede the proper functioning of local government; and undermine the credibility and integrity of the majority of the members who conduct business in a lawful manner.

Therefore, the purpose of this law is to regulate the provision of tax assessment reduction services within the County of Suffolk so as to deter potential abuses in order to protect the general welfare of the residents of this County.

Section 2. Definitions.

A.) "Complainant" shall mean the owner, contract vendee, or estate of the decedent owning real property.

B.) "Director" shall mean the head of the Suffolk County Office of Citizen Affairs.

C.) "Office" shall mean the Suffolk County Office of Citizen Affairs.

D.) "Owner" shall mean the last person in whose name the affected property appears in the records of the Suffolk County Clerk as certified by an abstract or title insurance company licensed by the State of New York. "Owner" shall include the authorized agent of an owner.

E.) "Property" shall mean any residential property eligible for assessment review.

F.) "Person" shall mean any natural person, individual, firm, partnership, association, entity, or corporation, other than an attorney.

G.) "Tax Assessment Consulting Service" shall mean any person, individual partnership, corporation, joint venture, or other entity who provides or offers to provide, for any compensation or consideration, whether direct or indirect, any service to assist the complainant or the authorized agent of the complainant of any property located within the County in obtaining a reduction in the assessed valuation of such premises from the Board of Assessment Review and the Town Assessing Unit.

Section 3. Prohibited Activity.

A.) No Tax Assessment Consulting Service shall:

1.) Claim or otherwise hold itself out, whether directly or indirectly, to be a governmental entity or a part thereof or to be affiliated with an entity of government;

2.) Claim or imply, directly or indirectly, that a complainant is overpaying real property taxes, unless such service shall have supported such allegations by furnishing the complainant with detailed and specific information, directly relating to the affected parcel of real estate;

3.) Claim or imply, directly or indirectly, that the only effective method by which a complainant may receive a tax assessment reduction is through use of a tax assessment consulting service;

4.) Charge a complainant a fee that exceeds, in the aggregate, one hundred per cent (100%) of the first year reduction in actual property taxes to be paid by the complainant as a result of a successful challenge that reduces the assessed valuation of a complainant's premises. Any such fee shall be paid only from the first year reduction. Any tax reduction service that charges a flat fee for services shall limit that fee to an amount not to exceed one hundred per cent (100%) of the first year reduction in actual property taxes.

B.) No Tax Assessment Consulting Service shall enter into a contract or agreement with a complainant unless such contract shall contain the following information or provisions in a conspicuously and clearly written manner:

1.) A schedule of the fees charged by such service;

2.) A provision permitting the complainant, at any time within three (3) days after having entered into such contract or agreement, to completely cancel such contract or agreement and receive a

full and prompt refund of any fee or deposit already paid by such complainant to such tax assessment consulting service. Any provision in a contract or retainer that purports or attempts to nullify, vacate, or in any manner restrict the right of cancellation described in this subdivision shall be completely void and unenforceable;

3.) A notification clearly distinguishing between assessments and actual taxes paid by a property complainant and clearly explaining that the challenge is related to the assessed value of the subject property and not the actual taxes paid on that assessment;

4.) A provision requiring that a tax assessment consulting service shall not retain any refund of taxes, received by the service as a result of a judicially ordered reduction, for a period of more than thirty (30) days without refunding same to the complainant/mortgagor, less uncollected fees due such service, if applicable, except for the following conditions:

a.) the complainant has relocated without notifying the service representing such complainant of same in writing; or

b.) unless the mortgagor has defaulted on the underlying mortgage or has agreed in writing to the contrary with the mortgagee;

c.) title to the affected property has been transferred subsequent to the filing of a complaint for the affected property ; or

d.) the amount of the refund or some aspect of the refund check is questionable or in error;

5.) A notification that a complainant is not required to use a tax assessment consulting service in order to file for an/or receive a tax assessment reduction;

6.) A statement as to the extent to which the tax assessment consulting service will proceed with an individual's claim to reduce a tax assessment.

Section 4. License Required.

A.) It shall be unlawful for any person to provide, or offer to provide, tax assessment consulting services within the County of Suffolk for or on behalf of any complainant without first obtaining a license from the Office in accordance with the provisions of this law, except for the following:

1.) Attorneys licensed to practice law by the State of New York.

Section 5. Application Procedure; Information Required; Qualifications; Issuance of License.

A.) All applications for licenses shall be submitted in writing on forms furnished by the Office and shall be accompanied by a non-refundable application fee in the amount of Three Hundred Dollars (\$300.00).

B.) The license application shall be signed under oath. Where a corporation is an applicant or a participant in an application, the application shall be signed under oath by an officer of such corporation.

C.) All applications shall include the residence address of the individual who subscribes his name to the application.

D.) The Director may require the names and residence addresses of any employees or officers of the applicant, in addition to any other information which he or she may deem advisable and proper.

E.) An individual applicant must be at least eighteen (18) years of age and of good character.

F.) The Director shall investigate such applicant as to good character before he or she shall issue the applicant a license.

G.) Applicants shall meet such further qualifications as may be prescribed by this section and any other appropriate section of this law, including such licensing examination as may be established by the Director.

H.) The Office shall issue a license or temporary license to each applicant who has submitted satisfactory evidence of his qualifications and who has complied with all of the requirements of this law.

Section 6. Term of Licenses; Renewal and Conditions.

A.) All licenses, except temporary licenses, shall be for a period of two (2) years from the date of issuance thereof at the discretion of the Office and shall expire on the last day of the 24th month after such issuance. Subsequent renewals shall be renewable in the odd-calendar year. Even-numbered licenses shall be renewable in the next even year. Fees payable upon renewal shall be in the amount of Two Hundred Dollars (\$200.00).

B.) No license issued hereunder shall be assignable or transferable.

C.) Failure to make application and pay the required annual fee for a license renewal prior to the expiration date of said license shall render the license null and void on the expiration date.

Compliance with the provisions of this paragraph shall entitle the licensee to the renewal of his or her license, provided that such license has not been suspended or revoked by the Director.

D.) The death of an individual who holds a valid license issued pursuant to this law shall terminate such license.

E.) A license issued in the name of an individual may be assigned or transferred for the remainder of the license period to a partnership, corporation, or other entity, provided that the individual holding such license is a general partner of such partnership, the complainant of not less than twenty-five per cent (25%) of the outstanding voting shares of such corporation, or the holder of not less than a twenty-five per cent (25%) interest in any other entity at the time of the assignment or transfer. The application for such transfer or assignment must be accompanied by evidence satisfactory to the Director that the above set forth requirements have been satisfied. No assignment or transfer shall become effective until proper endorsement evidencing said transfer or assignment has been made on the face of the license by the Director and such license, so endorsed, has been returned to the assignee or transferee. All such endorsements shall be made by the payment of a fee of Twenty-five Dollars (\$25.00).

F.) Each individual licensee shall, within ten (10) business days after a change of control; of ownership; or of management, apply for the assignment or transfer of a license specified in paragraph (E), or such license shall terminate. Every other licensee shall, within ten (10) business days after a change of control in ownership or management, notify the Office in writing of such change.

G.) No licensee shall authorize or permit the use of his or her license by or on behalf of any other person.

H.) Each licensee shall, within ten (10) business days after a change of address, notify the Office in writing of such change.

I.) A licensee who determines not to engage in the activity regulated herein may make application to the Office to de-activate temporarily his or her license issued pursuant to this section for a period not to exceed three (3) years. The licensee will submit with the application for shelving said license a fee of Fifty Dollars (\$50.00) for each annual period of inactivity sought.

Section 7. Duplicate and Supplementary Licenses.

A duplicate license may be issued for a license which has been lost, destroyed, or mutilated, upon application therefor on a form prescribed by the Director and the payment of a Fifty-Dollar (\$50.00) fee. Each such duplicate license shall have the word "duplicate" stamped across the face thereof and shall bear the same number as the one it replaces.

Section 8. Effect on Validity of Contracts.

A.) Any agreement to provide tax assessment consulting services entered into subsequent to the effective date of this law by a person who provides such services and who, on the date of such agreement, does not possess a valid license to engage in such a service shall be unenforceable by him or her and shall be voidable at the option of any other party to the contract. Nothing contained herein shall be construed to prevent any other party to the contract from enforcing its terms.

B.) Any agreement entered into in violation of Section 3(B) of this law shall be null and void ab initio and of no force and effect.

Section 9. Fines, Suspension, or Revocation of Licenses.

A.) The Director shall have the power to impose a civil fine not to exceed Five Hundred Dollars (\$500.00) upon a licensee, to suspend or revoke a license, or to deny an application for the renewal of a license for any one (1) or more of the following causes:

1.) Fraud, deceit, misrepresentation or bribery in securing a license;

2.) The making of any false statement in an application for a license;

3.) Violation of any provision of this law, any other appropriate law, or any rule or regulation promulgated thereunder;

4.) Fraud, deceit, or misrepresentation in securing any donation; and

5.) Violation of any provision of Section 3 or 4 of this law.

B.) No license shall be suspended or revoked nor a fine imposed until after a hearing has first been held before the Director upon at least seven (7) business days' notice to the licensee. Such notice shall be served either personally or by certified mail, return receipt requested, to the last known address of the licensee and shall state the date and place of the hearing as well as enumerate the grounds constituting the allegations against such licensee. The licensee may be represented by counsel and may produce witnesses in his or her own behalf. A verbatim record of the hearing shall

be taken and preserved. For purposes of such hearing, the Director may administer oaths, take testimony, subpoena witnesses, and compel the production of books, paper, records, or other documents deemed pertinent to the subject of the hearing.

Section 10. Civil Penalty.

In addition to any other penalty, fine, right, cause of action or claim provided by this law or any other law, any third intentional violation (not arising out of a single incident) by a tax assessment consulting service of any of the provisions of Section 3 or 4 of this Law shall render such violator liable for the payment to the County of Suffolk of a civil penalty, recoverable in an action brought in a court of competent jurisdiction, in the sum of not more than Two Thousand Dollars (\$2,000.00) for each such violation.

Section 11. Criminal Penalty.

A third, intentional separate (not arising out of a single incident) violation of Section 3(A) or 4 of this law shall constitute an unclassified misdemeanor punishable by a fine of up to One Thousand Dollars (\$1,000.00) and/or up to six (6) months imprisonment.

Section 12. Applicability.

This law shall apply to any agreements or contracts to render tax assessment consulting services entered into on or after (6) months subsequent to the effective date of this law.

Section 13. Severability.

If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

Section 14. SEQRA Determination.

This Legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this law constitutes a Type II action pursuant to Section 617.13(d)(21) of the NEW YORK CODE OF RULES AND REGULATIONS (NYCRR) and within the meaning of Section 8-0109(2) of the NEW YORK ENVIRONMENTAL CONSERVATION LAW as a promulgation of regulations, rules, policies, procedures, and legislative decisions in connection with continuing agency administration, management and information collection. The Suffolk County Council on Environmental Quality (CEQ) is hereby directed to circulate any appropriate SEQRA notices of determination of non-applicability or non-significance in accordance with this law.

Section 15. Effective Date.

This law shall take effect immediately upon filing in the office of the Secretary of State.

DATED: February 7, 1995

APPROVED BY:

/s/ Robert J. Gaffney

County Executive of Suffolk County